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§ 1601. Statements of national policy concerning welfare and immigration

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country’s earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the Nation’s borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) With respect to the State authority to make determinations concerning the eligibility of qualified aliens for public benefits in this chapter, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance

shall be considered to have chosen the least restrictive means available for achieving the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy.

(Pub. L. 104-193, title IV, § 400, Aug. 22, 1996, 110 Stat. 2260.)

REFERENCES IN TEXT

This chapter, referred to in par. (7), was in the original “this title” meaning title IV of Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2260, as amended, which enacted this chapter, section 1183a of this title, and sections 611a and 1437y of Title 42, The Public Health and Welfare, amended section 1383 of this title, sections 32 and 6213 of Title 26, Internal Revenue Code, and sections 1436a and 1471 of Title 42, and enacted provisions set out as notes under section 1183a of this title and section 32 of Title 26. For complete classification of title IV to the Code, see Tables.

SUBCHAPTER I—ELIGIBILITY FOR FEDERAL BENEFITS

§ 1611. Aliens who are not qualified aliens ineligible for Federal public benefits

(a) In general

Notwithstanding any other provision of law and except as provided in subsection (b) of this section, an alien who is not a qualified alien (as defined in section 1641 of this title) is not eligible for any Federal public benefit (as defined in subsection (c) of this section).

(b) Exceptions

(1) Subsection (a) of this section shall not apply with respect to the following Federal public benefits:

(A) Medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of such Act [42 U.S.C. 1396b(v)(3)]) of the alien involved and are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the State plan approved under such title (other than the requirement of the receipt of aid or assistance under title IV of such Act [42 U.S.C. 601 et seq.], supplemental security income benefits under title XVI of such Act [42 U.S.C. 1381 et seq.], or a State supplementary payment).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Public health assistance (not including any assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General’s sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind

services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient’s income or resources; and (iii) are necessary for the protection of life or safety.

(E) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or any assistance under section 1926c of title 7, to the extent that the alien is receiving such a benefit on August 22, 1996.

(2) Subsection (a) of this section shall not apply to any benefit payable under title II of the Social Security Act [42 U.S.C. 401 et seq.] to an alien who is lawfully present in the United States as determined by the Attorney General, to any benefit if nonpayment of such benefit would contravene an international agreement described in section 233 of the Social Security Act [42 U.S.C. 433], to any benefit if nonpayment would be contrary to section 202(t) of the Social Security Act [42 U.S.C. 402(t)], or to any benefit payable under title II of the Social Security Act to which entitlement is based on an application filed in or before August 1996.

(3) Subsection (a) of this section shall not apply to any benefit payable under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] (relating to the medicare program) to an alien who is lawfully present in the United States as determined by the Attorney General and, with respect to benefits payable under part A of such title [42 U.S.C. 1395c et seq.], who was authorized to be employed with respect to any wages attributable to employment which are counted for purposes of eligibility for such benefits.

(4) Subsection (a) of this section shall not apply to any benefit payable under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.] or the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] to an alien who is lawfully present in the United States as determined by the Attorney General or to an alien residing outside the United States.

(5) Subsection (a) of this section shall not apply to eligibility for benefits for the program defined in section 1612(a)(3)(A) of this title (relating to the supplemental security income program), or to eligibility for benefits under any other program that is based on eligibility for benefits under the program so defined, for an alien who was receiving such benefits on August 22, 1996.

(c) “Federal public benefit” defined

(1) Except as provided in paragraph (2), for purposes of this chapter the term “Federal public benefit” means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which